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12 **IN THE UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 ALEXANDER STEWART and
16 ANDREW CONWAY,

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
19 FRANCISCO, CALIFORNIA,
20 ROSANNA PEREZ, Park Ranger with
21 San Francisco Recreation and Parks
22 Department, JONATHAN WEBB, Park
23 Ranger with San Francisco Recreation
24 and Parks Department, and JESSICA
WALLACE, Park Ranger with San
Francisco Recreation and Parks
Department,

Defendants.

Case No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
NOMINAL DAMAGES**

**[Civil Rights Suit – 42 U.S.C. §
1983]**

1 Comes now Plaintiffs, Alexander Stewart and Andrew Conway, by counsel,
2 and aver the following:

3 **INTRODUCTION**

4 1. This is a civil rights action brought under 42 U.S.C. § 1983 and the
5 California State Constitution challenging the federal and state constitutionality of
6 the City and County of San Francisco Park Code § 7.03 on its face and as applied to
7 Plaintiffs' religious worship and expression in San Francisco public parks.

8 2. Plaintiffs seek injunctive relief, declaratory relief, and nominal damages
9 against Defendants named herein.

10 3. This action is premised on the United States Constitution and California
11 State Constitution, concerning the deprivation of Plaintiffs' fundamental rights to
12 free speech, liberty of speech, due process, free exercise of religion, equal protection
13 and freedom of assembly.

14 4. Defendants' actions have deprived and will continue to deprive Plaintiffs
15 of their fundamental rights as provided in the First and Fourteenth Amendments to
16 the United States Constitution and in Article 1 of the California State Constitution.

17 5. Each and every act of Defendants as alleged herein was committed by
18 Defendants named herein, and each and every act was committed under the color of
19 state law and authority.

20 **JURISDICTION AND VENUE**

21 6. This action raises federal questions under the First and Fourteenth
22 Amendments to the United States Constitution and 42 U.S.C. §§ 1983 and 1988.
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1 responsible for enforcing San Francisco Park Code.

2 15. Defendant Jessica Wallace (“Wallace”) is a park ranger with San
3 Francisco Recreation and Parks Department and is sued in her individual capacity.
4 She is responsible for enforcing San Francisco Park Code.

5 **STATEMENT OF FACTS**

6 **Stewart, Conway, and Christ’s Forgiveness Ministries Church**

7 16. Stewart and Conway are evangelical Christians.

8 17. As Christians, Stewart and Conway want to worship God on a regular
9 basis.

10 18. Stewart and Conway are both affiliated with Christ’s Forgiveness
11 Ministries (“CFM”) San Francisco church, a community of Christians who worship
12 together in the San Francisco area.

13 19. Stewart is an elder with CFM San Francisco church, a position of
14 leadership within the church.

15 20. CFM is a non-denominational Christian ministry which originated in
16 Canada and seeks to serve the world through evangelism and church planting.

17 21. Stewart and Conway believe in and adhere to CFM’s statement of faith.

18 22. Stewart and Conway believe the Bible is the inspired word of God.

19 23. They also believe in salvation by faith in Jesus Christ.

20 24. Additionally, Stewart and Conway believe in church fellowship and
21 regular assembly of worship with fellow Christians.

22 25. Stewart and Conway’s biblical basis for regular worship together is
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1 taken from Hebrews 10:25 in the Bible, stating, “Let us not give up the habit of
2 meeting together.”

3 26. Stewart and Conway, in accordance with their biblical beliefs, and as
4 observed in CFM’s statement of faith, believe church fellowship and the mission of
5 Jesus Christ is to proclaim the gospel of Jesus Christ to the world.

6 27. Also, in line with biblical depiction of corporate worship and as set out
7 in CFM’s statement of faith, Stewart and Conway believe worship must include
8 preaching of the gospel, reading the Bible, teaching from the Bible, public prayer,
9 singing and playing of instruments in praise of God, and observation of the Lord’s
10 Supper (also known as “communion”).

11 28. Regular participation in communion is commanded by the Bible in Mark
12 14:22-25. This activity acts as a memorial of Jesus Christ’s death, involving
13 presentation and consumption of elements, form of bread and wine, symbolizing the
14 blood and body of Jesus Christ.

15 29. Both Stewart and Conway consider worship with CFM San Francisco
16 church as one of their greatest joys and blessings and would like others to experience
17 this joy as well.

18 30. Stewart, Conway, and other participants in CFM San Francisco church
19 gather every week on Sunday morning for worship, during which time they fellowship
20 with other Christians and display the love and transformative power of Jesus Christ
21 to non-Christians.

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23 **Stewart and Conway’s Worship Activities in San Francisco Public Parks**
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1 31. CFM San Francisco church leaders, including Stewart, want to have
2 regular weekly worship services in San Francisco public parks.

3 32. Other churches in the CFM network utilize outdoor public parks to
4 conduct their worship services.

5 33. CFM San Francisco church, as a church plant who does not own
6 property, would like to take advantage of San Francisco public parks, which are freely
7 accessible and well-suited for worship activities.

8 34. Stewart, Conway, and others with CFM San Francisco church want to
9 serve the San Francisco community by conducting worship in public, accessible places
10 where they can share the gospel of Jesus Christ with others.

11 35. Public parks are also free and affordable venues for worship activities.

12 36. The number of people attending CFM San Francisco church worship
13 services vary in number, averaging between 40 to 70 attendees.

14 37. CFM San Francisco church worship services follow the biblical structure
15 of corporate worship as recognized in the Bible and CFM's statement of faith.

16 38. A typical CFM San Francisco church worship service begins with
17 musical instruments and singing for 30 minutes, followed by speaking and
18 testimonies for 30 minutes, communion and offering for 15 minutes, a sermon from a
19 biblical passage for a little over an hour, and ends with prayer.

20 39. CFM San Francisco church uses amplification for the music and singing,
21 as well as with preaching and prayer, so attendees can hear, understand, and
22 participate in the worship service. Stewart, Conway, and other attendees cannot
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effectively participate in these worship speech activities without amplification.

40. CFM San Francisco church uses a table to hold containers of bread and wine during communion to facilitate the distribution of these elements. They need a table to conduct communion.

Attempt to Worship on January 24, 2021, at Palace of Fine Arts Park

41. On Sunday, January 24, 2021, Stewart and Conway were among a group of people with CFM San Francisco church who gathered in an outdoor area of the Palace of Fine Arts Park to participate in a worship service.

42. Stewart and other church leaders chose the Palace of Fine Arts Park because the outdoor venue is unique, with a dome and columns, and good setting for a worship gathering.

43. Palace of Fine Arts Park is a public park managed and operated by the San Francisco Recreation and Parks Department (“SFRPD”).

44. Palace of Fine Arts Park is a popular park, giving the CFM San Francisco church an opportunity to witness to many people through their public worship.

45. Palace of Fine Arts Park is also a well-known destination to prospective attendees of the worship service, not far from the Golden Gate bridge, and easy to find. It serves as a central and appealing location for the gathering.

46. On the day they visited Place of Fine Arts Park, January 24, 2021, Stewart, Conway, and others with CFM San Francisco church started the worship service at the time they typically do, at 10:00 a.m., that Sunday morning.

1 47. At about an hour and a half into the worship service, a SFRPD officer,
2 Ranger Perez, approached church attendees while they were still worshipping in the
3 park.

4 48. Ranger Perez eventually spoke with Stewart, as a leader and
5 representative of the church.

6 49. The ranger informed Stewart that CFM San Francisco church needed a
7 permit under San Francisco Park Code § 7.03(i), which requires a permit for a
8 “concert” or “musical performance” with sound amplification equipment.

9 50. Ranger Perez issued a citation to Stewart carrying a fine of \$192.00.

10 51. Stewart, Conway, and the others disagreed with the park ranger
11 depicting their worship service as a concert or musical performance.

12 52. Still, Stewart, Conway, and the church leaders decided to pay the fine
13 and hoped to find another park where they could freely worship.

14 53. Stewart and Conway believed the park rule restricting amplification
15 was limited to the Palace of Fine Arts Park due to the iconic and touristy nature of
16 the venue. They did not believe the rule would apply in other parks.

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18 **Attempt to Worship on Sunday, February 7, 2021, at Potrero del Sol Park**

19 54. Following the incident at Palace of Fine Arts Park, Stewart and other
20 church leaders decided to go to Potrero de Sol Park for worship service, believing a
21 permit was not needed to worship in that location.

22 55. The church chose Potrero del Sol Park because the park is remote and
23 not near popular Palace of Fine Arts Park, but still a good venue for their worship.

1 56. They also wanted to avoid further park fines.

2 57. Stewart and other church leaders were aware of a labyrinth and stage
3 located in Potrero de Sol Park that would serve well for their worship activities.

4 58. Potrero del Sol Park is a public park managed and operated by the
5 SFRPD.

6 59. On Sunday, February 7, 2021, as planned, CFM San Francisco church
7 attendees met at Potrero de Sol Park to hold a worship service in the labyrinth and
8 stage area of the park.

9 60. Stewart, Conway, and the rest of the CFM San Francisco church
10 assembly believed they could avoid park ranger interference at Potrero del Sol Park
11 and worship freely there.

12 61. The worship service at its usual 10:00 a.m. time with approximately 50
13 people in attendance.

14 62. However, within 30 minutes after the worship service started, another
15 SFRPD officer, Ranger Webb, arrived on the scene.

16 63. Ranger Webb met with two church leaders, Stewart and Ryan Simpkins
17 (“Simpkins”), to discuss the ranger’s concerns.

18 64. Ranger Webb informed them that the church could not conduct their
19 worship activity with amplification.

20 65. Stewart explained they were not causing any problems, but the ranger
21 indicated that his office had received complaints about the worship service.

22 66. The church leaders advised that they would turn down the volume if
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1 noise was a concern, but Ranger Webb was not swayed by this suggestion. He
2 informed the issue concerned the very use of amplification, not noise level.

3 67. Ranger Webb informed Stewart and Simpkins that SFRPD has park
4 rules, that he was obliged to enforce the park rules, and the church's only recourse is
5 to get the park rules changed.

6 68. Regarding the specific rule invoked against the church, Ranger Webb
7 cited § 7.03(i) requiring a permit for the use of amplification in a musical concert or
8 performance.

9 69. Simpkins offered that they were willing to work with the City and
10 inquired of any way they could avoid a citation.

11 70. But Ranger Webb insisted on issuing a citation to them, explaining a
12 citation was needed because the church had previously violated a park rule at another
13 park.

14 71. Ranger Webb added that the church needs a permit for amplification,
15 and, without a permit, they could not use the amplifier in the park.

16 72. Simpkins advised they would turn off the amplifier and asked whether
17 their compliance would allow them to avoid a citation. Ranger Webb repeated they
18 could not avoid a citation.

19 73. Simpkins objected to a citation for violating First Amendment rights in
20 a public park. Ranger Webb said he would not debate the constitutionality of the
21 matter and invited Simpkins and Stewart to contest the matter in the court system.

22 74. Stewart asked if he could see the law, discern how they violated it, but
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1 Ranger Webb declined to show him the law, informing he does not usually show
2 people the laws they violate.

3 75. Ranger Webb elicited personal information from Stewart to issue him a
4 citation.

5 76. At Ranger Webb's prompting, two San Francisco police officers joined
6 the conversation. In the presence of these officers, Ranger Webb asked Stewart and
7 Simpkins to turn off the amplification and for their group to disperse, explaining they
8 needed to leave the park because they violated a park rule.

9 77. Stewart asked again if he could see the park rule they were purportedly.
10 Ranger Webb refused, saying they had to find the park rule on their own.

11 78. Ranger Webb confirmed the basis for the citation was using
12 amplification without a permit.

13 79. Stewart and Simpkins asked the police officers whether a permit is
14 needed to have a protest in a San Francisco park and the officers indicated no permit
15 is required for a protest as long as the event is unplanned.

16 80. Noting the distinction, Simpkins said they could depict the church
17 gathering as a type of protest. The officers did not respond to this idea.

18 81. Ranger Webb issued a citation to Stewart.

19 82. Afterwards, Ranger Webb warned Stewart and Simpkins to turn off the
20 amplified sound immediately and leave the park within 10 minutes. The ranger then
21 walked off with the police officers.

22 83. Stewart and Simpkins apprised CFM San Francisco church assembly of
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1 the situation and broke up the worship service.

2 84. Though the CFM San Francisco church assembly, including Stewart and
3 Conway, believed they had a right to worship in a public park with reasonable level
4 of amplified sound without the need for a permit, they did not want to risk arrest and
5 left the park.

6 85. Stewart subsequently noticed the fine for the citation doubled, totaling
7 \$384.00.

8 86. Stewart paid the fine of \$384 to avoid further difficulty. But he and
9 other church leaders did not want to incur any future fines.

10 **Attempt to Worship on Sunday, February 21, 2021, at McClaren Park**

11 87. Stewart, Conway, along with others in the CFM San Francisco church,
12 were discouraged from worshipping in San Francisco public parks due to their
13 encounters with park rangers and citations.

14 88. To avoid another citation, they elected to go to a different public park
15 where amplification was not as essential. Stewart and the church leaders settled on
16 a portion of McClaren Park to have a worship service.

17 89. Stewart and Conway and other church leaders believed the acoustics in
18 an area near the basketball court in McClaren Park would allow them to facilitate
19 worship without amplification, though they were unsure how well they could be heard
20 without amplification.

21 90. On Sunday, February 21, 2021, Stewart, Conway, and other members of
22 CFM San Francisco church met at McClaren Park for worship, starting at 10:00 a.m.
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1 that Sunday morning.

2 91. McClaren Park is a public park managed and operated by the SFRPD.

3 92. Stewart and other CFM San Francisco church leaders planned to
4 worship this day without using amplification.

5 93. They specifically selected the spot in McClaren Park on the side of an
6 open-air basketball court because it offers good acoustics for sound.

7 94. CFM San Francisco church had around 50 people participating in the
8 worship that day.

9 95. While the lack of amplification hampered their ability to communicate
10 with attendees, the acoustics in the area did make the worship activity doable.

11 96. However, after CFM San Francisco church had engaged in worship for
12 about an hour or so, Park Ranger Muyco walked up to the gathering while one of the
13 church leaders, Stewart, was preaching to the assembly.

14 97. Another church leader, Ahmed Akbar, left the worship service to meet
15 and speak with Ranger Muyco on a nearby sidewalk.

16 98. Ranger Muyco informed Akbar that the church group needed a permit
17 for their worship activity in the park.

18 99. Akbar questioned the directive, pointing out that they were not using
19 amplification.

20 100. Ranger Muyco answered the activity would still require a permit if they
21 had a certain number of people gathering.

22 101. The ranger added that he had received a complaint and would
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1 appreciate it if the church group would pack up and leave.

2 102. Akbar reiterated that they were not using amplification, which he
3 understood was the activity prohibited by park rule.

4 103. Ranger Muyco indicated the best he could do was give the church a few
5 minutes to wrap it up.

6 104. Akbar advised Ranger Muyco that Stewart had another 20 minutes left
7 of his sermon, but the ranger was unwilling to give them 20 minutes.

8 105. Akbar was confused by the order and shared his confusion with Ranger
9 Muyco, observing that park rangers had previously warned them about amplification
10 and not the number of participants.

11 106. Ranger Muyco stressed the church's need for a permit, advising they
12 were in violation of a park rule and had to clear out. He added that he did not make
13 up the park rules, he enforces them.

14 107. Akbar responded that the church understands and respects the park
15 ranger's authority, but he hoped the ranger could consider that they were warned
16 about amplification and had complied with that requirement. He asked the ranger if
17 he could let Stewart finish his sermon before departing.

18 108. Ranger Muyco walked closer to the gathering and Simpkins left the
19 worship service to meet him.

20 109. Stewart continued to preach while Simpkins spoke with Ranger Muyco.

21 110. Ranger Muyco informed Simpkins that the church group needed a
22 permit because they were violating a park rule.
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1 111. The ranger said the best he could do was give them time to pack up and
2 clear out.

3 112. Simpkins asked if there was a reason why they needed a permit to be in
4 a public park, referencing people who were standing nearby and apparently there to
5 play basketball.

6 113. Ranger Muyco answered the church needed a permit due to the number
7 of people in attendance at their event.

8 114. The park ranger said he needed more information from them,
9 particularly, from the person in charge. Akbar informed several church leaders were
10 in charge of the assembly.

11 115. Ranger Muyco then walked toward Stewart who was still speaking to
12 the group at that time. Simpkins asked the ranger to not interrupt him, but the
13 ranger walked up to speaker anyway, and told him the group was committing a park
14 violation.

15 116. Ranger Muyco then walked off and spoke with someone on his hand-
16 held radio for approximately 15 minutes.

17 117. After which time, Ranger Muyco came back to Akbar and Simpkins, and
18 was accompanied by another park ranger, Ranger Wallace.

19 118. Ranger Muyco reiterated that the church needed to leave the park.
20 Akbar retorted that they have freedom of speech and to assemble together.

21 119. Ranger Wallace spoke up and asked Akbar and Simpkins if they were
22 about to wrap up their worship activity. She observed that people walk by and see
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1 the church gathering and complain to the park rangers about it, and suggested they
2 get a permit for their activity.

3 120. Akbar told Ranger Wallace they respect the law but informed her that
4 previous park rangers specified a concern about amplification and did not mention
5 any concerns about the number of attendees at their event.

6 121. Akbar asked, in light of just learning about the additional concern over
7 the number of participants, if they could let Stewart finish before having to leave.

8 122. Ranger Wallace indicated the speaker could finish his delivery but the
9 crowd had to spread out due to concerns over COVID-19 restrictions.

10 123. Both rangers walked off, and church leaders, including Stewart and
11 Conway, assumed they had concluded their discussions with the rangers. They
12 brought an end to the worship service and anticipated leaving the park soon
13 thereafter.

14 124. However, as they were packing up to leave, Ranger Wallace came back
15 to Akbar and started filling out a citation for violating a park rule.

16 125. Ranger Wallace asked Akbar for his personal information to issue a
17 citation.

18 126. Akbar was perplexed about receiving a citation and was reticent to give
19 her personal information. Ranger Wallace said he had to give her the information or
20 she would get the police involved.

21 127. Akbar advised that he thought they had received a warning and
22 complied, but Ranger Wallace indicated the church group needs to know they need a
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1 permit for future gatherings and a citation helps serve that purpose.

2 128. Ranger Wallace added the church could obtain a permit by going
3 through the permits department.

4 129. Akbar was troubled by the need for a permit. He asked if they would a
5 need a permit if only 10 people attended the service. Ranger Wallace indicated she
6 did not know, she does not work in the permits department, but they could get with
7 permits department about the requisite number.

8 130. Akbar did not understand why they were receiving a citation. He
9 pointed out to Ranger Wallace that she had to have some number in mind to conclude
10 that their number in attendance was violating the park rule.

11 131. Ranger Wallace ignored the concern and did not explain how she could
12 give a citation without knowing the cap on number of attendees set out in the park
13 rule. She gave Akbar contact information for the permits department and encouraged
14 the church to obtain a permit for their next gathering in a public park.

15 132. Ranger Wallace issued a citation to the group for using a foldable table
16 during communion in violation of § 7.03(t).

17 133. The fine for the citation was \$384.00

18
19 **Attempt to Worship on Sunday, March 21, 2021, at United Nations Plaza**

20 134. Despite the troubling and constant presence of SFRPD officers at their
21 worship services and the recurring citations they were receiving, Stewart, Conway,
22 and the rest of the church did not wish to give up their right to worship in public
23 places.

1 135. The church next chose, on Sunday, March 21, 2021, to go to public space
2 in the United Nations (U.N.) Plaza, an area they not consider a public park and
3 thought was under federal control.

4 136. They also chose this location because of their evangelistic mission,
5 believing the church could be a light in the darkness for hurting people in the vicinity
6 of the plaza.

7 137. Stewart, Conway, and others in CFM San Francisco church arrived on
8 this day, at 10:00 a.m. that Sunday morning and proceeded with their worship
9 service. They had approximately 50 people in attendance at the service.

10 138. But Ranger Wallace soon arrived on the scene while they were
11 worshipping and promptly wrote out a citation for violating § 7.03. She also wrote
12 out a citation for violating § 3.07 pertaining to the posting of signs.

13 139. Ranger Wallace does not specify the subsection of § 7.03 for which she
14 was issuing the citation to CFM San Francisco church. She originally wrote a
15 violation of §7.03(i)(2) dealing with amplification on the citation but struck it out,
16 signaling an intention not to pursue a violation under that subsection.

17 140. Ranger Wallace issued the citation without explaining which subsection
18 the church had violated with its worship.

19
20 **Attempts to Explore a Permit to Worship in San Francisco Public Parks**

21 141. Wanting to avoid further interruptions with their worship and
22 additional fines, Conway, on behalf of CFM San Francisco church, decided to explore
23 the need to obtain a permit for conducting worship activity in San Francisco public
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1 parks and the process for obtaining a permit.

2 142. On March 22, 2021, Conway contacted SFRPD office about the need for
3 a permit to conduct worship activity in a public park. The official directed Conway
4 to fill out an online application to obtain a permit for conducting worship.

5 143. Before doing so, Conway looked up the permit requirement in San
6 Francisco Park Code, § 7.03, which reads in its entirety:

7 No person shall, without a permit, perform any of the following acts in
8 any park:

9 (a) Conduct or sponsor a parade involving (1) 50 or more persons; (2)
the use of any street in any park; or (3) vehicles.

10 (b) Conduct or sponsor an event in which persons engage in
petitioning, leafletting, demonstrating or soliciting when the number of
11 petitioners, leafletters, demonstrators, or solicitors engaging in one or
more of these activities involves 50 or more such persons at the same
time within an area circumscribed by a 500 foot radius.

12 (c) Engage in soliciting in the Music Concourse Area of Golden Gate
Park. This subsection shall not preclude the Commission from
13 prohibiting persons from soliciting inside the Japanese Tea Garden.

14 (d) Sell or offer for sale books, newspapers, periodicals or other printed
material.

15 (e) Conduct or sponsor any exhibit, promotion, dramatic performance,
theatrics, pantomime, dance, fair, circus, festival, juggling or other
16 acrobatics or show of any kind or nature which has been publicized
four hours or more in advance.

17 (f) Perform any feat of skill or produce any amusement show, movie or
entertainment which has been publicized four hours or more in
18 advance.

19 (g) Make a speech which has been publicized four hours or more in
advance.

20 (h) Conduct or sponsor a religious event involving 50 or more persons;

21 (i) Conduct or sponsor a concert or musical performance which (1) has
been publicized four hours or more in advance, or (2) utilizes sound
amplification equipment, or (3) involves a band or orchestra.

22 (j) Participate in a picnic, dance or other social gathering involving 25
or more persons.

23 (k) Sell or provide food to persons, except that no permit is required
when a person participating in a picnic or social gathering of 25 or
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fewer persons provides food to others who are also participating in the picnic or social gathering.

(l) Conduct or sponsor a race or marathon which involves 25 or more persons as participants or which obstructs or interferes with the normal flow of vehicular or pedestrian traffic.

(m) Conduct or sponsor any event which utilizes sound amplification equipment, as defined in Part II, Chapter VIII (Police Code) of the San Francisco Municipal Code.

(n) Conduct or sponsor an exhibition.

(o) Conduct or sponsor an animal show.

(p) Conduct a wedding ceremony.

(q) Conduct or sponsor an art show.

(r) Operate any amusement park device. The Commission may prohibit the operation of

such devices in any park or, if it allows such operation, may designate those locations where such operation is permitted.

(s) Conduct or sponsor an organized kite-flying event of any club or organization.

(t) Station or erect any table, scaffold, stage, platform, rostrum, tower, stand, bandstand, building, fence, wall, monument, dome or other structure.

144. After reviewing § 7.03, Conway determined the church would need a permit for the worship activity in public parks under the park rules, noticing § 7.03(h) requires a permit for a “religious event” in a public park involving 50 or more people and that they typically have 50 or more people.

145. Conway filled out the permit application on this same date, March 22, 2021, requesting use of U.N Plaza, and listing McClaren Park as second choice, for the upcoming Sunday of March 28, 2021, starting at 10:00 a.m. and ending at 1:00 p.m., and for consecutive Sundays following thereafter.

146. Hoping to avoid the permit requirements altogether, he labelled the activity as a protest, but he acknowledged the religious nature of the event and that the group anticipated 50 people.

1 147. The following day, March 23, 2021, Shauna Bogetz, Supervisor of
2 Special Events, Permits and Reservations with the SFRPD, emailed Conway about
3 his application, copying Stacey Cataylo, also an employee in the Special Events,
4 Permits and Reservations department, on the email, and confirmed the church's need
5 for a permit.

6 148. In her email, Bogetz, stated U.N. Plaza could not accommodate a group
7 of Conway's size while adhering to social distance requirements. She added that
8 McClaren Park was available to them, but only in a lawn area across from the parking
9 lot. She further informed that Conway's church group could only obtain three permits
10 at a time and would have to apply for new permits after exhausting these three
11 permits.

12 149. Conway believed the lawn area in McClaren Park was less than ideal,
13 the church preferred the area near the basketball court, but he was tasked to find for
14 a place for their worship service. He emailed Bogetz later that day, on March 23,
15 2021, and confirmed that they wanted to pursue the permit for the lawn area space
16 in the park. He asked Bogetz of the next steps in the process.

17 150. The next day, March 24, 2021, Cataylo contacted Conway and they
18 spoke over the phone about the permitting process. She asked for details about the
19 worship activities he anticipated taking place in the park and Conway explained how
20 the worship service would work, with preaching, music, and prayer with
21 amplification, and communion.

22 151. Also, during this phone call, Cataylo elaborated on the requirements the
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1 church would need to meet to obtain a permit. These requirements included a health
2 and safety plan, a certificate of insurance for coverage of two million dollars, payment
3 of permit fee, and a bond.

4 152. For the health and safety plan, Cataylo directed that every attendee had
5 to sign their names on a list the day of the event to ensure they were each following
6 COVID protocols.

7 153. Cataylo followed up with an email to Conway on this same day of March
8 24, 2021, confirming the activities of the church in the park and the requirements for
9 the permit.

10 154. Receiving this email, Conway emailed back on March 25, 2021, thanking
11 Cataylo, advising that he would follow up with any questions.

12 155. Later that afternoon, on March 25, 2021, Cataylo wrote Conway again,
13 informing the SFRPD had set up an invoice for the CFM San Francisco church to pay
14 to complete the permit process. Cataylo also advised that any sound going beyond
15 the picnic area could result in the church incurring an additional cost for having a
16 park ranger come and staff the event.

17 156. Conway passed along the information to Stewart and other church
18 leaders.

19 157. CFM San Francisco church leaders determined they could not go
20 forward with the permit for the park due to the cost and burdensome requirements
21 and wanted to see if they could avoid the necessity of a permit.

22 158. Though CFM San Francisco church typically had 50 or more attendees
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1 at their services, Stewart and other leaders thought it possible they could temporarily
2 cap attendance at 49 to ensure a place for them to worship.

3 159. On April 5, 2021, Conway followed up with an email to Cataylo advising
4 that they did not need a permit after all anticipating attendance of less than 50
5 participants.

6 160. However, by email dated April 6, 2021, Cataylo informed the church
7 group would still need a permit due to their use of either amplification or a table.

8 161. On April 7, 2021, Conway asked Cataylo to confirm the church would
9 need a permit for a religious event with at least 50 people, or for using amplification,
10 or for using a table, and, on the following day, April 8, 2021, Cataylo did so.

11 162. Due to the park rules and onerous permit restrictions, Stewart and
12 Conway, along with other CFM San Francisco church leaders, concluded they could
13 not use San Francisco public parks for their worship services.

14 **San Francisco Maintains Ongoing Restriction on Worship in Public Parks**

15 163. On April 15, 2021, Stewart and Conway sent a letter to the Mayor of
16 San Francisco, City Attorney, and SFRPD Chief Park Ranger, seeking relief from the
17 ongoing park rule restrictions.

18 164. The letter described the four times SFRPD officers stopped CFM San
19 Francisco worship services in four different public parks, Stewart and Conway's
20 interactions with SFRPD officers, the citations they received, and the difficulty with
21 the permitting process.

22 165. The letter also substantiated their constitutional right to engage in
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1 religious worship and speech and activities in San Francisco public parks without
2 having to obtain a permit.

3 166. Stewart and Conway asked San Francisco authorities to reimburse the
4 amount of \$576.00 Stewart paid for fines, attorney fees incurred, dismiss the citations
5 where the fines had not yet been paid, and to provide written assurance that the City
6 and SFRPD would no longer apply § 7.03 permit requirements to Stewart, Conway,
7 or anyone else associated with CFM San Francisco church wishing to engage in
8 worship service in San Francisco public parks.

9 167. On April 26, 2021, Deputy City Attorney for San Francisco emailed back.
10 In this communication, the attorney did not address the issues in the letter and asked
11 the church group secure a permit for the religious gathering.

12 168. Dissatisfied with this response, counsel for Stewart and Conway, on
13 April 27, 2021, asked Deputy City Attorney to address the concerns set out in the
14 letter.

15 169. In reply, on April 29, 2021, the Deputy City Attorney declined to
16 alleviate or address the constitutional concerns. Instead, the attorney suggested
17 Stewart and Conway obtain a permit for park use.

18 170. Writing back, April 30, 2021, counsel for Stewart and Conway reiterated
19 the request for counsel for San Francisco to address the concerns specified in the
20 letter.

21 171. On May 4, 2021, counsel for San Francisco responded in an email stating
22 that § 7.03 and its application to Stewart and Conway are constitutionally valid and
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1 reminded of the need for a permit for religious worship.

2 172. Stewart and Conway were disappointed to learn of this stance. The
3 burdensome permitting scheme set out in the park rules functions as an
4 unconstitutional prior restraint on their religious worship and speech.

5 173. Stewart and Conway are chilled and deterred from engaging in worship
6 and religious speech in San Francisco parks for fear of criminal sanction.

7 174. This adverse impact of chilling and deterring Stewart and Conway from
8 exercising their constitutional rights in public parks constitutes irreparable harm to
9 them.

10 175. Stewart and Conway have no adequate remedy at law for the loss of
11 their constitutional rights.

12 **FIRST CAUSE OF ACTION**

13 **Violation of Free Speech Clause**

14 **United States Constitution**

15 176. Stewart and Conway re-allege and incorporate herein by reference all
16 preceding paragraphs.

17 177. The First Amendment to the United States Constitution, applied to the
18 States through the Fourteenth Amendment, prohibits an unconstitutional
19 abridgment on free speech.

20 178. Stewart and Conway's religious speech is protected speech under the
21 First Amendment.

22 179. San Francisco's permit scheme acts as an unconstitutional prior
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1 restraint that prohibits Stewart and Conway from engaging in expressive activities.

2 180. Stewart and Conway challenge San Francisco Park Code § 7.03 on its
3 face and as applied to their religious speech.

4 181. Section 7.03:

- 5 a. is vague and overbroad;
- 6 b. discriminates against speech because of speakers' content;
- 7 c. restrains constitutionally-protected speech in advance of its expression,
8 without appropriate guidelines or standards to guide the discretion of
9 officials charged with enforcing the policy;
- 10 d. chills the free speech of Conway and Stewart and of other third party
11 citizens;
- 12 e. allows for the exercise of unbridled discretion;
- 13 f. lacks narrow tailoring, fails to achieve any legitimate government
14 purpose, and fails to leave open alternative avenues for expression;
- 15 g. is unreasonable.
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17 182. Defendants have no compelling or legitimate reason that can justify the
18 restriction on Stewart and Conway's religious speech in San Francisco public parks
19 through the application and enforcement of the permit scheme.

20 WHEREFORE, Stewart and Conway respectfully pray the Court grant the
21 equitable and legal relief set forth in the prayer for relief.

22 **SECOND CAUSE OF ACTION**

23 **Violation of the Due Process Clause**

United States Constitution

183. Stewart and Conway re-allege and incorporate herein by reference all preceding paragraphs.

184. The Fourteenth Amendment to the United States Constitution requires citizen be given due process under the law.

185. San Francisco Park Code § 7.03 is too vague to give persons of reasonable intelligence fair notice of what activities are proscribed.

186. San Francisco Park Code § 7.03 lacks sufficient objective criteria to guide park authorities and enforcement officers to prevent arbitrary and discriminatory enforcement.

187. San Francisco Park Code § 7.03 vests park authorities and enforcement officers with unbridled discretion to grant, deny, modify, or revoke permits.

188. Defendants have no compelling or legitimate reason that can justify their vague park code or their policies enforcing them.

189. San Francisco Park Code § 7.03 and Defendants' enforcement thereof violate the Due Process Class of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Stewart and Conway respectfully pray the Court grant the equitable and legal relief set forth in the prayer for relief.

THIRD CAUSE OF ACTION

Violation of Free Exercise of Religion Clause

United States Constitution

1 190. Stewart and Conway re-allege and incorporate herein by reference all
2 preceding paragraphs.

3 191. The First Amendment to the United States Constitution, applied to the
4 States through the Fourteenth Amendment, prohibits the unconstitutional
5 abridgment of the free exercise of religion.

6 192. Both Stewart and Conway have a personal religious belief in the biblical
7 mandate to engage in regular worship, gather with fellow believers, and to share their
8 faith in community with other believers.

9 193. San Francisco Park Code § 7.03 prohibits Stewart and Conway from
10 freely exercising their religion, specifically restricting religious events and critical
11 aspects of worship activity.

12 194. Defendants' enforcement requires Stewart and Conway to cease their
13 religious worship, imposing a substantial burden on the freedom to exercise their
14 religion.

15 195. On its face and as applied, San Francisco Park Code § 7.03
16 unconstitutionally impedes Stewart and Conway's right to free exercise of religion
17 without any rational, substantial, or compelling government interest for doing so.

18 WHEREFORE, Stewart and Conway respectfully pray the Court grant the
19 equitable and legal relief set forth in the prayer for relief.
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21 **FOURTH CAUSE OF ACTION**

22 **Violation of Equal Protection Clause**

23 **United States Constitution**
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1 196. Stewart and Conway re-allege and incorporate herein by reference all
2 preceding paragraphs.

3 197. Under San Francisco Park Code § 7.03, Defendants have allowed and
4 continue to allow expressive and non-expressive activities to take place in San
5 Francisco public parks while prohibiting Stewart and Conway from participating in
6 like activity in same locations.

7 198. Defendants' enforcement of San Francisco Park Code § 7.03
8 discriminates against Stewart and Conway in comparison to other similarly-situated
9 individuals.

10 199. Defendants have no compelling or legitimate reason that would justify
11 their disparate treatment.

12 200. San Francisco Park Code § 7.03 on its face and as applied violates the
13 Equal Protection Clause of the Fourteenth Amendment to the United States
14 Constitution.

15 WHEREFORE, Stewart and Conway respectfully pray the Court grant the
16 equitable and legal relief set forth in the prayer for relief.

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18 **FIFTH CAUSE OF ACTION**

19 **Violation of Freedom of Assembly Clause**

20 **United States Constitution**

21 201. Stewart and Conway re-allege and incorporate herein by reference all
22 preceding paragraphs.

23 202. The First Amendment of the Constitution protects the "right of the
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1 people peaceably to assemble.”

2 203. By denying Stewart and Conway the ability to assemble for CFM San
3 Francisco worship services in all San Francisco public parks, San Francisco Park
4 Code § 7.03 violates the Freedom of Assembly Clause.

5 204. San Francisco Park Code § 7.03 greatly limits Stewart and Conway’s
6 ability to gather together and engage in worship with others associated with CFM
7 San Francisco church.

8 205. Imposing a burdensome and restrictive permitting scheme that targets
9 worship activities is not the least restrictive means of achieving any legitimate goals.

10 206. San Francisco Park Code § 7.03 violates the Freedom of Assembly
11 Clause of the First Amendment to the United States Constitution.

12 WHEREFORE, Stewart and Conway respectfully pray the Court grant the
13 equitable and legal relief set forth in the prayer for relief.

14 **SIXTH CAUSE OF ACTION**

15 **Violation of the Liberty of Speech Clause**

16 **California State Constitution**

17 207. Stewart and Conway re-allege and incorporate herein by reference all
18 preceding paragraphs.

19 208. The Liberty of Speech Clause of the California State Constitution, set
20 out in Article 1, § 2(a), reads: “Every person may freely speak, write and publish his
21 or her sentiments on all subjects, being responsible for the abuse of that right. A law
22 may not restrain or abridge liberty of speech or press.”
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1 7.03 so as to restrict constitutionally-protected worship and speech of Stewart,
2 Conway, and other third parties, in San Francisco parks;

3 E. Adjudge, decree, and declare the rights and other legal relations with
4 the subject matter here in controversy, in order that such declaration shall have the
5 force and effect of final judgment;

6 F. Award Stewart compensatory damages in the amount of \$ 576.00,
7 representing the amount of fines he was unconstitutionally required to pay;

8 G. Award Stewart and Conway nominal damages each in the amount of
9 \$1.00 arising from the acts of the Defendants as an important vindication of their
10 constitutional rights;

11 H. Award Conway and Stewart their costs and expenses of this action,
12 including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988 and other
13 applicable law; and

14 I. Grant such other and further relief as appears to this Court to be
15 equitable and just.
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17 Dated: February 21, 2022
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Respectfully submitted,

/s/ Robert H. Tyler

Robert H. Tyler

CA Bar # 179572

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/s/ Nathan W. Kellum

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Attorney for Plaintiff


*Application for Admission *Pro Hac Vice*
filed concurrently

VERIFICATION

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I, the undersigned, a citizen of the United States and resident of Oakland, California, have read the foregoing Verified Complaint and declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated this 18th day of February, 2022.



ALEXANDER STEWART

VERIFICATION

I, the undersigned, a citizen of the United States and resident of Oakland, California, have read the foregoing Verified Complaint and declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated this 7th day of February, 2022.


ANDREW CONWAY

COMPLAINT

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2022, the foregoing document will be delivered to a process server for service upon defendants.

/s/Nathan W. Kellum
Nathan W. Kellum
Attorney for Plaintiff